

REMARKS

Reconsideration of this application is respectfully requested.

Claims 11-18 have been cancelled for convenience and without prejudice solely to reduce the number of issues presented for review.

The amendments to claims 1 and 6 are supported in the specification as originally filed, for example at paragraph 9. No new matter is being added.

None of the cited references, whether considered alone or in combination with one another, teach or suggest a method in which the detected electrons are those electrons scattered or reflected at angles less than eighty degrees with respect to a surface of an inspected object, as presently claimed.

Essers, US Patent 6,590,210, discusses use of an applied field between the specimen and an electrode to capture electrons scattered from the specimen, but is silent regarding the claimed features noted above. Chen, US Patent 6,064,486, is cited for modifying the combination of Bowes and Sawahata to provide an apparatus for projecting a beam to underlying patterns and detecting the position of an alignment mark. Such teachings, even when combined with Essers do not address the deficiencies notes above. Bowes, US Patent 6,778,275, discusses aspects of a overlay measurement scheme involving non-overlapping features, but is vague when describing intermediate layers. That is, it is unclear whether Bowes is describing layers that are positioned between layers in which feature of the overlay measurement target are found (e.g., in between layers 630 and 640) or other layers between a substrate and a lower layer in which feature of the overlay measurement target are found (e.g., layers such as layer 620). Regardless of which scenario Bowes is actually describing, none of the above-mentioned reasons for patentability are impacted.

Therefore, the claims are patentable over the combination of these references.

If there are any additional fees due in connection with this communication, please charge Deposit Account No. 19-3140.

Respectfully submitted,
SONNENSCHNEIN NATH & ROSENTHAL LLP
Tarek N. Fahmi
Tarek N. Fahmi
Reg. No. 41,402

Dated: February 9, 2010

P.O. Box 061080
Wacker Drive Station, Willis Tower
Chicago, IL 60606-1080
650-798-0320